IN THE HIGH COURT OF JUDICATURE

ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE M.VENKATESWARA REDDY

WRIT PETITION NO :8386 of 2006

-

-

-

Dated: 25th April 2006.

-

Between:

K.Jaipal

..... PETITIONER

AND

Senior Divisional Personnel Officer, South Central Railway Vijayawada Divn., Vijayawada

.....RESPONDENT

THE HON'BLE SRI JUSTICE J.CHELAMESWAR

AND

THE HON'BLE SRI JUSTICE M.VENKATESWARA REDDY

-

-

W.P.NO.8386 OF 2006

-

-

ORAL ORDER:

(Per the Hon'ble Sri Justice J.Chelameswar)

This writ petition is filed with the prayer as follows:

> " For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue a writ, or order or direction more particularly in the nature of Writ of Certiorari quash the judgment of Central Administrative Tribunal, Hyderabad in O.A.No.376/05 dated: 06.03.06 after calling for the records and consequently direct the respondent administration to fix the salary by adding the running allowance component to the maximum and minimum of the scale to place the petitioner in suitable post with all monitory benefits from 23.7.90 as per para 1304 and 1309 of IREM and pass such order or other orders as deemed fit in the interest of justice."

The order under challenge dated 06-03-2006 in O.A.No.376 of 2005, reads as follows:

> " Learned counsel for the applicant seeks to withdraw this application in order to file an appropriate application in terms of the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights & Full Participation) Act, 1995. The application is allowed to be withdrawn with liberty as sought. The application be filed within 30 days from today. xxxxxxxxx"

The learned counsel for the petitioner Sri K.Srinivasa Murthy submits that he was held up in the High Court on that particular day and a junior colleague of his

office sought for passover of the matter, when the matter was taken up by the Tribunal, which request was declined by the Tribunal and his colleague, who represented the matter before the Tribunal, is hardly one year old in the legal profession, therefore, he could not handle the matter properly, which resulted in the impugned order.

The learned counsel further submits that the claim of the petitioner in the O.A., pertains to the period prior to the year 1995 and there could not have been concession to consider the case under the provisions of the Act as indicated in the impugned order and that there could not have been any concession on the part of the counsel, who represented the case before the Tribunal and the same happened because of inexperience on the part of the counsel.

In fact, the learned counsel, who appeared before the Tribunal on that day, filed an affidavit, wherein he specifically stated that he sought for passing over of the matter, since his senior colleague was came to be held up in the High Court.

Heard the learned Standing Counsel for the respondents.

In the circumstances, we are of the opinion that the ends of justice would be met by remitting the matter to the Tribunal by setting aside the order under challenge for consideration and disposal of the same on merits in accordance with law and, accordingly, we do so.

With the above observation, the writ petition is allowed.

J.Chelameswar, J

M.Venkateswara Reddy, J

mrk

25th April 2006.